



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: NOVEMBER 02, 2022

IN THE MATTER OF:

Appeal Board No. 624866

PRESENT: MICHAEL T. GREASON, MEMBER

In Appeal Board Nos. 624866 and 624867, the Commissioner of Labor appeals from the decisions of the Administrative Law Judge filed July 14, 2022, which overruled the initial determinations holding the claimant ineligible to receive benefits, effective November 9, 2020 through November 15, 2020; February 15, 2021 through February 21, 2021; April 12, 2021 through April 18, 2021; April 26, 2021 through May 2, 2021; May 17, 2021 through May 23, 2021; June 14, 2021 through June 20, 2021; July 26, 2021 through August 1, 2021; and August 23, 2021 through August 29, 2021, on the basis that the claimant failed to certify for the benefit period within the seven-day period for such certification; and holding the claimant ineligible to receive benefits, effective November 16, 2020 through November 22, 2020, May 3, 2021 through May 9, 2021, August 2, 2021 through August 8, 2021 on the basis that the claimant did not comply with registration requirements.

At the combined telephone conference hearings before the Administrative Law Judge, all parties were accorded a full opportunity to be heard and testimony was taken. There was an appearance by the claimant.

The Board considered the arguments contained in the written statement submitted on behalf of the Commissioner of Labor.

Our review of the record reveals that the case should be remanded to hold a hearing. On appeal, the Commissioner of Labor contends that the claimant offered new information at the hearing when he testified that he was unable to certify and/or register for benefits due to problems with Department's certification systems, as well as issues caused by his unverified identity.

The Board has determined to provide the Commissioner of Labor an opportunity to submit testimony and other evidence in this matter, including the issues raised by the claimant's testimony. In this regard, the Commissioner of Labor shall appear by a representative at the remand hearing. The parties may produce any other relevant witnesses or documents. At the remand hearing, the Commissioner of Labor shall be given an opportunity to cross-examine the claimant's prior testimony, and to object to the documents previously entered into evidence. The Administrative Law Judge shall take any additional testimony and evidence necessary to decide the case.

Now, based on all of the foregoing, it is

ORDERED, that the decision of the Administrative Law Judge be, and the same hereby is, rescinded; and it is further

ORDERED, that the case shall be, and the same hereby is, remanded to the Hearing Section to hold a hearing on the issue, upon due notice to all parties and their representatives; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and, so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render a new decision, issue, which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

MICHAEL T. GREASON, MEMBER